

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/622,830 Confirmation No. : 5406
First Named Inventor : Manfred ELZENBECK
Filed : October 18, 2000
TC/A.U. : 3636
Examiner : S. A. VU

Docket No. : 037128.49096US
Customer No. : 23911

Title : Bedstead

REPLY BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following comments are addressed to the Examiner's Answer dated November 17, 2004.

Applicants traverse the indication at item 7, on page 2 that Appellant's Brief fails to include a statement that this grouping of claims does not stand or fall together. Appellant's point to page 4 under the section entitled "Grouping of the Claim", wherein the statement is made that claims 15-18, 23-28, 42 and 43 does not stand or fall together. Reasons in support of this contention are contained in the "Arguments" section at the bottom of page 9 and at page 10 which specifically states the claims are separately patentable from the independent claim and provides reasons for such contention.

Additionally, it was indicated that claims 29-33 were incorrectly listed and that they were withdrawn and thus not the subject of the rejection. Applicants submit that these claims depend upon independent claim 15 and, if independent claim 15 is allowable, as set forth in the Appeal Brief, then claims 29-33 are also allowable and therefore are part of the rejection.

With respect to the "Response to Arguments" at item 11 on pages 5 and 6, it appears that the Examiner has indicated that the "first prestressed area" is

the perforated area 7 and that the second prestressed area is the half-circular cutout 26. Without any indication of support, the Examiner concludes that the first prestressed area is considered to be substantially different from the second prestressed area. Still further the rejection goes on to indicate that the different zones of the reference to Baker provide more elasticity. The conclusion is that "there is a certain degree for the elastic structure to prestressed, otherwise the elastic structure would sag under the weight of the user and the user's body would hit the ground". Applicant's wish to point out that the material of Baker is not prestrained or prestretched in any measurable manner and that the shape of the material is essentially the same both before and after it is applied to the frame. If it would be prestressed the holes would not retain their alignment or they would not be symmetrical due to the stretching.

Still further after making these statements concerning the material and its features, the Examiner requires a second reference (British Patent) for showing of an elastic textile product. There is no indication of the prestressed first or second sections in the British Patent and if these references were to be combined there is no indication that the statements that the Examiner made with respect to the showing of Baker (the primary reference) would still apply using the different material. Furthermore, as indicated previously, Applicants do not accept the statement of the Examiner with respect to the showing of Baker.

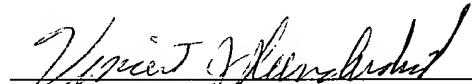
CONCLUSION

Applicants therefore submit that there are no showings in either of the references which would lead to the presently claimed invention and for the reasons indicated in the Appeal Brief, Appellants once again request the reversal of the decision of the Examiner.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account no. 05-1323, Docket No.: 037128.49096US.

Respectfully submitted,

December 17, 2004



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